

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOBBY RAY GRANT Jr.,

Plaintiff,

v.

PATRICK COVELLO, *et al.*,

Defendants.

No. 2:21-cv-01878-WBS-JDP (PC)

ORDER DENYING PLAINTIFF’S MOTION
TO APPOINT COUNSEL

ECF No. 34

Plaintiff is a state inmate proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. Plaintiff moves for the appointment of counsel.¹ ECF No. 34.

Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court lacks the authority to require an attorney to represent plaintiff. *See Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). The court can request the voluntary assistance of counsel. *See* 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel”); *Rand*, 113 F.3d at 1525. But without a means to compensate counsel, the court will seek volunteer counsel only in exceptional circumstances. In determining whether such

¹ The court stayed this action on November 15, 2023. ECF No. 33. Notwithstanding the stay, the court is addressing plaintiff’s motion because it appears that the order staying this action and plaintiff’s motion may have crossed in the mail; plaintiff signed his motion a day after the court ordered the stay.

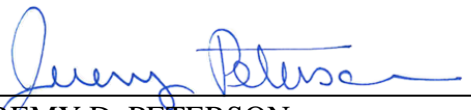
1 circumstances exist, “the district court must evaluate both the likelihood of success on the merits
2 [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
3 legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks and citations omitted).

4 Plaintiff moves for the appointment of counsel because he is not a lawyer, he has limited
5 access to the prison law library, the issues are complex, and a lawyer would aid him in litigation.
6 ECF No. 34 at 1-2. Plaintiff’s reasons for requesting the appointment of counsel “are typical of
7 almost every *pro se* prisoner civil rights plaintiff and alone” are insufficient to satisfy the
8 “exceptional circumstances” standard required to justify the appointment of counsel. *See*
9 *Thompson v. Paramo*, No. 16cv951-MMA (BGS), 2018 WL 4357993, at *1 (S.D. Cal. Sept. 13,
10 2018); *Jones v. Kuppinger*, 2:13-cv-451-WBS (AC), 2015 WL 5522290, at *3-4 (E.D. Cal. Sept.
11 17, 2015) (“Circumstances common to most prisoners, such as a deficient general education, lack
12 of knowledge of the law, mental illness and disability, do not in themselves establish exceptional
13 circumstances warranting appointment of voluntary civil counsel.”). Moreover, the allegations in
14 the complaint are not exceptionally complicated, plaintiff has submitted several motions and
15 pleadings without the assistance of counsel, and he has not demonstrated that he is likely to
16 succeed on the merits.

17 Accordingly, it is hereby ORDERED that plaintiff’s motion for the appointment of
18 counsel, ECF No. 34, is denied.

19
20 IT IS SO ORDERED.

21 Dated: November 28, 2023

22 
23 JEREMY D. PETERSON
24 UNITED STATES MAGISTRATE JUDGE
25
26
27
28